

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1375

Introduced by Kristensen, 37

Read first time January 20, 2000

Committee: Transportation and Telecommunications

A BILL

- 1 FOR AN ACT relating to telecommunications; to amend section 70-625,
- 2 Revised Statutes Supplement, 1998; to limit eligible
- 3 providers of telecommunications service; to regulate
- 4 certain leases of fiber capacity; to state intent; to
- 5 harmonize provisions; to provide a duty to the Revisor of
- 6 Statutes; and to repeal the original section.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that public power
2 districts are organized to provide water service for irrigation and
3 electrical service and to produce ethanol and that the cost of
4 providing such services or producing such product is paid for by
5 the customers of the public power district. It is the intent of the
6 Legislature that no public power district should subsidize the
7 provision of any other commercial service or product through rates
8 charged to its customers, including the provision of fiber
9 capacity. A public power district may provide for the lease of its
10 fiber capacity if such lease complies with sections 2 and 3 of this
11 act.

12 Sec. 2. (1) No state agency, political subdivision, or
13 entity created under the Interlocal Cooperation Act or Joint Public
14 Agency Act shall operate as a telecommunications contract carrier
15 or a telecommunications common carrier engaged in furnishing
16 telecommunications service for hire in Nebraska intrastate
17 commerce.

18 (2) A public power district organized under Chapter 70,
19 article 6, may provide for the lease of its fiber capacity if:

20 (a) The district forms a separate subsidiary of the
21 district for the purpose of leasing its fiber capacity. The
22 separate subsidiary shall (i) be organized under the laws of
23 Nebraska, (ii) be subject to, and not exempt from, the imposition,
24 collection, and remittance of all federal, state, and local taxes
25 and fees applicable to other entities providing fiber capacity in
26 Nebraska, and (iii) promptly pay the district at fair market value
27 for any services, assets, personnel, facilities, or infrastructure
28 of the district used by, purchased by, or otherwise transferred to

1 the subsidiary for the provision of fiber capacity;

2 (b) The lessee is a certificated telecommunications
3 common carrier or a permitted telecommunications contract carrier
4 pursuant to section 75-604; and

5 (c) The lease is entered into by the subsidiary and the
6 lessee and is approved by the Public Service Commission pursuant to
7 section 3 of this act.

8 Sec. 3. No lease of fiber capacity by a separate
9 subsidiary of a public power district shall be effective until
10 filed with the Public Service Commission and the commission has
11 determined that (1) the requirements of subdivisions (2)(a) and
12 (2)(b) of section 2 of this act are met and (2) such lease (a) is
13 in the public interest, (b) promotes the development of competitive
14 telecommunications markets in this state, and (c) was entered into
15 on a nondiscriminatory, nonpreferential basis. If the commission
16 determines that the conditions in subdivisions (1) and (2) of this
17 section are met, the lease shall be deemed to be approved.

18 Sec. 4. (1) A public power district and any subsidiary
19 leasing fiber capacity shall annually file with the Public Service
20 Commission any information required by the commission to enforce
21 sections 1 to 3 of this act. Such information shall include, but
22 not be limited to, the terms of any agreement under which the
23 district provides services, assets, personnel, facilities, or
24 infrastructure to the subsidiary.

25 (2) If the commission determines that a public power
26 district has subsidized the provision of fiber capacity in
27 violation of sections 1 to 4 of this act, the commission shall
28 request that the Attorney General take appropriate action on behalf

1 of the ratepayers of the district in a court of competent
2 jurisdiction to enjoin the district from providing fiber capacity
3 in violation of sections 1 to 4 of this act.

4 Sec. 5. Section 70-625, Revised Statutes Supplement,
5 1998, is amended to read:

6 70-625. (1) Subject to the limitations of the petition
7 for its creation and all amendments to such petition, a public
8 power district has all the usual powers of a corporation for public
9 purposes and may purchase, hold, sell, and lease personal property
10 and real property reasonably necessary for the conduct of its
11 business. No district may sell household appliances at retail if
12 the retail price of any such appliance exceeds fifty dollars,
13 except that newly developed electrical appliances may be
14 merchandised and sold during the period of time in which any such
15 appliances are being introduced to the public. New models of
16 existing appliances shall not be deemed to be newly developed
17 appliances. An electrical appliance shall be considered to be in
18 such introductory period of time until the particular type of
19 appliance is used by twenty-five percent of all the electrical
20 customers served by such district, but such period shall in no
21 event exceed five years from the date of introduction by the
22 manufacturer of the new appliance to the local market.

23 (2) In addition to its powers authorized by Chapter 70
24 and specified in its petition for creation as amended, a public
25 power district may sell, lease, and service satellite television
26 signal descrambling or decoding devices, satellite television
27 programming, and equipment and services associated with such
28 devices and programming, except that this section does not

1 authorize public power districts (a) to provide signal descrambling
2 or decoding devices or satellite programming to any location (i)
3 being furnished such devices or programming on April 24, 1987, or
4 (ii) where community antenna television service is available from
5 any person, firm, or corporation holding a franchise pursuant to
6 sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383
7 to 23-388 on April 24, 1987, or (b) to sell, service, or lease
8 C-band satellite dish systems or repair parts.

9 (3) In addition to the powers authorized by Chapter 70
10 and specified in its petition for creation as amended, the board of
11 directors of a public power district may apply for and use funds
12 available from the United States Department of Agriculture or other
13 federal agencies for grants or loans to promote economic
14 development and job creation projects in rural areas as permitted
15 under the rules and regulations of the federal agency from which
16 the funds are received. Any loan to be made by a district shall
17 only be made in participation with a bank pursuant to a contract.
18 The district and the participating bank shall determine the terms
19 and conditions of the contract. In addition, in rural areas of the
20 district, the board of directors of such district may provide
21 technical or management assistance to prospective, new, or
22 expanding businesses, including home-based businesses, provide
23 assistance to a local or regional industrial or economic
24 development corporation or foundation located within or contiguous
25 to the district's service area, and provide youth and adult
26 community leadership training.

27 (4) In addition to the powers authorized by Chapter 70
28 and specified in its petition for creation as amended, a public

1 power district may transfer its fiber capacity to a separate
2 subsidiary of the district pursuant to sections 1 to 4 of this act.

3 (5) Notwithstanding any law, ordinance, resolution, or
4 regulation of any political subdivision to the contrary, each
5 public power district may receive funds and extend loans pursuant
6 to the Nebraska Investment Finance Authority Act or pursuant to
7 this section. In addition to the powers authorized by Chapter 70
8 and specified in its petition for creation, as amended, and without
9 the need for further amendment thereto, a public power district may
10 own and operate, contract to operate, or lease energy equipment and
11 provide billing, meter reading, surveys, or evaluations and other
12 administrative services, but not to include natural gas services,
13 of public utility systems within a district's service territory.

14 Sec. 6. The Revisor of Statutes shall assign sections 1
15 to 4 of this act to Chapter 75, article 7.

16 Sec. 7. Original section 70-625, Revised Statutes
17 Supplement, 1998, is repealed.